
HOUSE BILL No. 1743

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13.

Synopsis: Adult offender compact. Adopts the interstate compact for adult offender supervision, which creates a national interstate commission for adult offender supervision made up of the compact administrators from states that join the interstate compact. Delegates to the interstate commission the authority to adopt rules concerning the transfer of probationers and parolees between states, and permits the interstate commission to impose fines or seek injunctive relief against a county or the state if the county or state does not comply with the compact. Establishes Indiana's state council for interstate adult offender supervision. Specifies that the older compact applies to states that have not adopted the new compact, but provides that the administrator of the new compact also administers the old compact. Requires offenders to pay a \$50 application fee to apply for transfer out of state. Provides that a parolee's application fee is paid to the department of correction and that a probationer's fee is split between the department of correction and the supervising county. Annually appropriates \$40,000 to the Indiana judicial center to pay the costs of administering the interstate compact.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Interstate and International Cooperation.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1743

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-13-4-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The ~~judicial~~
3 ~~conference of Indiana~~ **compact administrator appointed by the state**
4 **council under IC 11-13-4.5-3(h)(2)** is the administrator for
5 probationers participating in the interstate compact for the supervision
6 of parolees and probationers under this chapter and under IC 11-13-5.

7 (b) The judicial conference of Indiana may establish a staff position
8 within the Indiana judicial center to which the duties of the compact
9 administrator may be delegated.

10 (c) The judicial conference of Indiana shall adopt rules under
11 IC 4-22-2 prescribing duties and procedures for administering
12 probationers participating in the interstate compact under this chapter
13 and under IC 11-13-5.

14 SECTION 2. IC 11-13-4.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2003]:

17 **Chapter 4.5. Interstate Compact for Adult Offender Supervision**



1 **Sec. 1. The governor shall enter into a compact on behalf of the**
 2 **state with any other state in the form substantially as follows:**

3 **ARTICLE I**
 4 **DEFINITIONS**

5 **As used in this compact, unless the context clearly requires a**
 6 **different construction:**

7 (1) **"Adult" means both individuals legally classified as adults**
 8 **and juveniles treated as adults by court order, statute, or**
 9 **operation of law.**

10 (2) **"Bylaws" means those bylaws established by the interstate**
 11 **commission for its governance or for directing or controlling**
 12 **the interstate commission's actions or conduct.**

13 (3) **"Compact administrator" means the individual in each**
 14 **compacting state appointed under the terms of this compact**
 15 **to be responsible for the administration and management of**
 16 **the state's supervision and transfer of offenders subject to the**
 17 **terms of this compact, the rules adopted by the interstate**
 18 **commission, and policies adopted by the state council under**
 19 **this compact.**

20 (4) **"Compacting state" means any state that has enacted the**
 21 **enabling legislation for this compact.**

22 (5) **"Commissioner" means the voting representative of each**
 23 **compacting state appointed under Article II of this compact.**

24 (6) **"Interstate commission" means the interstate commission**
 25 **for adult offender supervision established by this compact.**

26 (7) **"Member" means the commissioner of a compacting state**
 27 **or designee, who shall be a person officially connected with**
 28 **the commissioner.**

29 (8) **"Non-compacting state" means any state that has not**
 30 **enacted the enabling legislation for this compact.**

31 (9) **"Offender" means an adult who is placed under or subject**
 32 **to supervision as the result of the commission of a criminal**
 33 **offense and released to the community under the jurisdiction**
 34 **of courts, paroling authorities, corrections, or other criminal**
 35 **justice agencies.**

36 (10) **"Person" means any individual, corporation, business**
 37 **enterprise, or other legal entity, either public or private.**

38 (11) **"Rules" means acts of the interstate commission, adopted**
 39 **under Article VII of this compact, substantially affecting**
 40 **interested parties in addition to the interstate commission,**
 41 **which shall have the force and effect of law in the compacting**
 42 **states.**

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(12) "State" means a state of the United States, the District of Columbia, or any territorial possession of the United States.

(13) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under Article II of this compact.

ARTICLE II

THE COMPACT COMMISSION

(1) The interstate commission for adult offender supervision is established.

(2) The interstate commission is a body corporate and joint agency of the compacting states. The interstate commission has all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(3) The interstate commission consists of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners, who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All non-commissioner members of the interstate commission are ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it considers necessary.

(4) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(5) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(6) The interstate commission shall establish an executive

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committee that must include commission officers, members, and others as shall be determined by the bylaws. The executive committee has authority to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day to day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission, and performs other duties as directed by the commission or set forth in the bylaws.

ARTICLE III

THE STATE COUNCIL

Each member state shall create a state council for interstate adult offender supervision that shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity or under applicable law of the member state. Although each member state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator, who shall be appointed by the state council or by the governor in consultation with the general assembly and the judiciary. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

- (1) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.
- (2) To adopt rules that have the force and effect of statutory law and are binding in the compacting states to the extent and

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in the manner provided in this compact.

(3) To oversee, supervise, and coordinate the interstate movement of offenders, subject to the terms of this compact and any bylaws and rules adopted by the compact commission.

(4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(5) To establish and maintain offices.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, or contract for services of personnel, including but not limited to members and their staffs.

(8) To establish and appoint committees and hire staff it considers necessary for the carrying out of its functions, including but not limited to an executive committee as required by Article II that may act on behalf of the interstate commission in carrying out its powers and duties.

(9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of them.

(11) To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.

(13) To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.

(14) To sue and be sued.

(15) To provide for dispute resolution among compacting states.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during

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the preceding year. Such reports must include any recommendations that may have been adopted by the interstate commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Part A. Bylaws

The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

- (1) establishing the fiscal year of the interstate commission;
- (2) establishing an executive committee and such other committees as may be necessary;
- (3) providing reasonable standards and procedures:
 - (A) for the establishment of committees; and
 - (B) governing any general or specific delegation of any authority or function of the interstate commission;
- (4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;
- (5) establishing the titles and responsibilities of the officers of the interstate commission;
- (6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission;
- (7) providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of its debts and obligations;
- (8) providing transition rules for start up administration of the compact; and
- (9) establishing standards and procedures for compliance and



technical assistance in carrying out the compact.

Part B. Officers and Staff

(a) The interstate commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers elected shall serve without compensation or remuneration from the interstate commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(b) The interstate commission, through its executive committee, shall appoint or retain an executive director for such time, upon such terms and conditions, and for such compensation as the interstate commission may find appropriate. The executive director shall serve as secretary to the interstate commission and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

Part C. Corporate Records of the Interstate Commission

The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

Part D. Qualified Immunity, Defense, and Indemnification

(a) The members, officers, executive director, and employees of the interstate commission are immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities. However, nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(b) The interstate commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees, and the interstate commission's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities or that the defendant has a reasonable basis for

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believing occurred within the scope of interstate commission employment, duties, or responsibilities, as long as the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of the person.

(c) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, and the interstate commission's representatives or employees harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of the person.

ARTICLE VI

ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, the act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(b) Each member of the interstate commission is entitled to cast a vote to which the compacting state represented by the member is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(c) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of



a majority of the members, shall call additional meetings.

(d) The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In adopting rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records, subject to nondisclosure and confidentiality provisions.

(e) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall adopt rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. 552(b), as amended. The interstate commission or any of its committees may close a meeting to the public if it determines by the affirmative votes of at least two-thirds (2/3) of the members present and voting that an open meeting would be likely to:

- (1) relate solely to the interstate commission's internal personnel practices and procedures;
- (2) disclose matters specifically exempted from disclosure by statute;
- (3) disclose trade secrets or commercial or financial information that is privileged or confidential;
- (4) involve accusing any person of a crime or formally censuring any person;
- (5) disclose information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy;
- (6) disclose investigatory records compiled for law enforcement purposes;
- (7) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of the entity;
- (8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or
- (9) specifically relate to the interstate commission's issuance

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of a subpoena or its participation in a civil action or proceeding.

(f) For every meeting closed under subsection (e) of this Article, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(g) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules, which must specify the data to be collected, the means of collection and data exchange, and reporting requirements.

ARTICLE VII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall adopt rules to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states. Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted under this article and the bylaws. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq. and the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 1 et seq., as may be amended (referred to in this compact as "APA").

(b) Each rule and amendment shall become binding as of the date specified in the rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, the rule has no further force and effect in any compacting state.

(d) When adopting a rule, the interstate commission shall:

(1) publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;



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- (2) allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;
- (3) provide an opportunity for an informal hearing; and
- (4) adopt the final rule and its effective date, if appropriate, based on the rulemaking record.

(e) Not later than sixty (60) days after a rule is adopted, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

- (1) notice to victims and opportunity to be heard;
- (2) offender registration and compliance;
- (3) violations/returns;
- (4) transfer procedures and forms;
- (5) eligibility for transfer;
- (6) collection of restitution and fees from offenders;
- (7) data collection and reporting;
- (8) the level of supervision to be provided by the receiving state;
- (9) transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and
- (10) mediation, arbitration, and dispute resolution.

(f) Upon determination by the interstate commission that an emergency exists, it may adopt an emergency rule that shall become effective immediately upon adoption. However, the rulemaking procedures provided under this article shall be applied retroactively to the rule as soon as reasonably possible, and not later than ninety (90) days after the effective date of the rule.

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Part A. Oversight

(a) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non-compacting



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states that may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

Part B. Dispute Resolution

(a) The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(b) The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise between compacting states and non-compacting states.

(c) The interstate commission shall enact a bylaw or adopt a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

Part C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact using any or all means set forth in Article XI, Part C, of this compact.

ARTICLE IX

FINANCE

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and shall adopt a rule binding upon all compacting states that governs the assessment.

(c) The interstate commission shall not incur any obligation of

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1 any kind before securing the funds adequate to meet the obligation;
 2 nor shall the interstate commission pledge the credit of any
 3 compacting state except by and with the authority of the
 4 compacting state.

5 (d) The interstate commission shall keep accurate accounts of all
 6 receipts and disbursements. The receipts and disbursements of the
 7 interstate commission shall be subject to the audit and accounting
 8 procedures established under its bylaws. However, all receipts and
 9 disbursements of funds handled by the interstate commission shall
 10 be audited yearly by a certified or licensed public accountant, and
 11 the report of the audit shall be included in and become part of the
 12 annual report of the interstate commission.

13 ARTICLE X

14 COMPACTING STATES, EFFECTIVE DATE, AND 15 PROPOSED AMENDMENTS

16 (a) Any state may become a compacting state. The compact
 17 becomes effective and binding upon legislative enactment of the
 18 compact into law by not less than thirty-five (35) states. The initial
 19 effective date shall be the later of July 1, 2001, or upon enactment
 20 into law by the thirty-fifth jurisdiction. Thereafter, the compact
 21 shall become effective and binding on any other compacting state
 22 upon enactment of the compact into law by that state. The
 23 governors of nonmember states or their designees will be invited
 24 to participate in interstate commission activities on a nonvoting
 25 basis before adoption of the compact by all states and territories of
 26 the United States.

27 (b) Amendments to the compact may be proposed by the
 28 interstate commission for enactment by the compacting states. No
 29 amendment shall become effective and binding upon the interstate
 30 commission and the compacting states unless and until it is enacted
 31 into law by unanimous consent of the compacting states.

32 ARTICLE XI

33 WITHDRAWAL, DEFAULT, TERMINATION, AND 34 JUDICIAL ENFORCEMENT

35 Part A. Withdrawal

36 (a) Once effective, the compact continues in force and remains
 37 binding upon every compacting state. A compacting state may
 38 withdraw from the compact ("withdrawing state") by enacting a
 39 statute specifically repealing the statute that enacted the compact
 40 into law.

41 (b) The effective date of withdrawal is the effective date of the
 42 repeal.



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1 (c) The withdrawing state shall immediately notify the
 2 chairperson of the interstate commission in writing upon the
 3 introduction of legislation repealing this compact in the
 4 withdrawing state. The interstate commission shall notify the other
 5 compacting states of the withdrawing state's intent to withdraw
 6 within sixty (60) days of its receipt.

7 (d) The withdrawing state is responsible for all assessments,
 8 obligations, and liabilities incurred through the effective date of
 9 withdrawal, including any obligations the performance of which
 10 extends beyond the effective date of withdrawal.

11 (e) Reinstatement following withdrawal of any compacting state
 12 shall occur upon the withdrawing state reenacting the compact or
 13 upon such later date as determined by the interstate commission.
 14 **Part B. Default**

15 (a) If the interstate commission determines that any compacting
 16 state has at any time defaulted (thus becoming a "defaulting
 17 state") in the performance of any of its obligations or
 18 responsibilities under this compact, the bylaws, or any adopted
 19 rules, the interstate commission may impose any or all of the
 20 following penalties:

21 (1) Fines, fees, and costs levied upon the county responsible
 22 for the default, or upon the state, if the state is responsible for
 23 the default, in amounts considered reasonable as fixed by the
 24 interstate commission.

25 (2) Remedial training and technical assistance as directed by
 26 the interstate commission.

27 (3) Suspension and termination of membership in the
 28 compact.

29 (b) Suspension shall be imposed only after all other reasonable
 30 means of securing compliance under the bylaws and rules have
 31 been exhausted. Immediate notice of suspension shall be given by
 32 the interstate commission to the governor, the chief justice or the
 33 chief judicial officer of the state, the majority and minority leaders
 34 of the defaulting state's legislature, and the state council.

35 (c) The grounds for default include but are not limited to,
 36 failure of a compacting state to perform such obligations or
 37 responsibilities imposed upon it by this compact, interstate
 38 commission bylaws, or adopted rules. The interstate commission
 39 shall immediately notify the defaulting state in writing of the
 40 penalty imposed by the interstate commission on the defaulting
 41 state pending a cure of the default. The interstate commission shall
 42 stipulate the conditions and the time within which the defaulting

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1 state must cure its default. If the defaulting state fails to cure the
 2 default within the time specified by the interstate commission, in
 3 addition to any other penalties imposed herein, the defaulting state
 4 may be terminated from the compact upon an affirmative vote of
 5 a majority of the compacting states, and all rights, privileges, and
 6 benefits conferred by this compact shall be terminated from the
 7 effective date of suspension.

8 (d) Within sixty (60) days of the effective date of termination of
 9 a defaulting state, the interstate commission shall notify the
 10 governor, the chief justice or the chief judicial officer of the state,
 11 the majority and minority leaders of the defaulting state's
 12 legislature, and the state council of such termination.

13 (e) The defaulting state is responsible for all assessments,
 14 obligations, and liabilities incurred through the effective date of
 15 termination, including any obligations, the performance of which
 16 extends beyond the effective date of termination.

17 (f) The interstate commission shall not bear any costs relating
 18 to the defaulting state unless otherwise mutually agreed upon
 19 between the interstate commission and the defaulting state.
 20 Reinstatement following termination of any compacting state
 21 requires both a reenactment of the compact by the defaulting state
 22 and the approval of the interstate commission under the rules.

23 Part C. Judicial Enforcement

24 The interstate commission may, by majority vote of the
 25 members, initiate legal action in the United States District Court
 26 for the District of Columbia or, at the discretion of the interstate
 27 commission, in the federal district where the interstate commission
 28 has its offices, to enforce compliance with the provisions of the
 29 compact, its adopted rules, and bylaws, against any compacting
 30 state in default or against a county if the county is responsible for
 31 the default. If judicial enforcement is necessary, the prevailing
 32 party shall be awarded all costs of such litigation, including
 33 reasonable attorney's fees.

34 Part D. Dissolution of Compact

35 (a) The compact dissolves effective on the date of the
 36 withdrawal or default of the compacting state that reduces
 37 membership in the compact to one (1) compacting state.

38 (b) Upon the dissolution of this compact, the compact becomes
 39 void and is of no further force or effect, and the business and
 40 affairs of the interstate commission shall be wound up and any
 41 surplus funds shall be distributed in accordance with the bylaws.

42 ARTICLE XII



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SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

This compact does not prevent the enforcement of any other law of a compacting state that is not inconsistent with this compact. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

Sec. 2. (a) All lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(b) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(c) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency of the state to which such obligations, duties, powers, or jurisdiction is delegated by law in effect at the time this compact becomes effective.

Sec. 3. (a) As used in this section, "council" refers to the state council for interstate adult offender supervision, as described in Article I(13) of section 1 of this chapter, that is established for Indiana by this section.

(b) The council is established. The council consists of the following members:

- (1) The commissioner of the department of correction.
- (2) The executive director of the Indiana judicial center.
- (3) The executive director of the criminal justice institute.
- (4) One (1) member of a victim's group, who shall be appointed by the governor upon recommendation of the

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executive director of the criminal justice institute.

(5) The executive director of the Indiana sheriffs' association.

(6) The executive director of the public defender council.

(7) The executive director of the prosecuting attorneys council.

(8) One (1) member of the general assembly, appointed by the chairman of the legislative council. The legislative member serves at the pleasure of the chairman of the legislative council.

(9) The compact administrator, if the compact administrator is not already a member of the council under subdivisions (1) through (8).

(c) The executive director of the Indiana judicial center shall serve as the chairperson of the council.

(d) The Indiana judicial center shall staff the council.

(e) The council shall meet at the call of the chairperson or upon request by a majority of the members, but shall meet at least one (1) time per calendar year.

(f) The commissioner of the department of correction shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect to out-of-state offenders who are on parole.

(g) The executive director of the Indiana judicial center shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect to out-of-state offenders who are on probation.

(h) The council has the following duties:

(1) The council shall receive the recommendation of the commissioner of the department of correction and the executive director of the Indiana judicial center concerning the appointment of a compact administrator.

(2) The council shall appoint the compact administrator, who shall serve as commissioner on the interstate commission. If the compact administrator is unable to serve as commissioner at a meeting of the interstate commission, the council shall designate another person to serve in place of the compact administrator.

(3) The council shall oversee activities of the interstate commission.

(4) The council may make recommendations concerning the

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operation of the interstate compact within Indiana and recommendations to facilitate the implementation of the rules and bylaws adopted by the interstate commission.

(i) The expenses of the council shall be paid from appropriations made to the Indiana judicial center of Indiana.

(j) A member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). However, the member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the council who is a state employee but is not a member of the general assembly is entitled to reimbursement for traveling expense as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) The member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(m) The member of the council who is a member of the general assembly serves as a nonvoting member.

(n) The affirmative votes of a majority of the voting members appointed to the council are required for the committee to take action on any measure, including making a recommendation.

Sec. 4. The state shall continue to meet its obligations under IC 11-13-4 (the interstate compact for the supervision of parolees and probationers) to those states that:

(1) continue to meet their obligations to the state of Indiana under IC 11-13-4; and

(2) have not approved the interstate compact for adult supervision after this chapter becomes effective.

Sec. 5. (a) Except as provided in subsection (b), an Indiana offender on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision must

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1 pay an application fee of fifty dollars (\$50). The application fee
2 shall be used to cover the costs of administering the interstate
3 compact for adult offender supervision.

4 (b) An offender is not required to pay the application fee
5 described in subsection (a) if the offender has been found indigent
6 by a trial court at the time the offender applies to be transferred
7 out of state under the interstate compact for adult supervision.

8 (c) An Indiana offender who is on probation shall pay the
9 application fee to the county probation department.

10 (d) An Indiana offender who is on parole shall pay the
11 application fee to the department of correction.

12 (e) The application fee paid under subsection (c) by an Indiana
13 offender who is on probation shall be transferred to the county
14 treasurer. The county treasurer shall deposit fifty percent (50%)
15 of the money collected under this subsection into the county
16 supplemental adult probation services fund and shall transmit the
17 remaining fifty percent (50%) of the money collected under this
18 subsection to the Indiana judicial center for deposit in the general
19 fund, to be used to cover the cost of administering the interstate
20 compact for adult offender supervision.

21 (f) The executive director of the Indiana judicial center shall
22 submit a proposed budget for expenditure of the money deposited
23 in the general fund under this section to the budget agency in
24 accordance with IC 4-12-1.

25 (g) The application fee paid by an Indiana offender who is on
26 parole shall be deposited in the general fund to be used to cover the
27 cost of administering the interstate compact for adult offender
28 supervision.

29 (h) The commissioner of the department of correction shall
30 submit a proposed budget for expenditure of the money deposited
31 in the general fund under subsection (e) to the budget agency in
32 accordance with IC 4-12-1.

33 **Sec. 6. There is annually appropriated to the Indiana judicial**
34 **center forty thousand dollars (\$40,000) from the state general fund**
35 **to administer the interstate compact for adult offender supervision.**

36 **SECTION 3. IC 34-30-2-39.6 IS ADDED TO THE INDIANA**
37 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
38 **[EFFECTIVE JULY 1, 2003]: Sec. 39.6. IC 11-13-4.5-1, Article V,**
39 **Part D (Concerning the members, officers, executive director, and**
40 **employees of the interstate commission for adult offender**
41 **supervision).**

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